

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

J.H., et al.,

Plaintiffs,

v.

**Teresa D. Miller, in her official capacity
as Secretary of the Pennsylvania
Department of Human Services, et al.,**

Defendants.

Civil Action No. 1:15-cv-02057-SHR

Judge Sylvia H. Rambo

**FOURTH STIPULATION TO EXTEND
SECOND SETTLEMENT AGREEMENT**

WHEREAS Plaintiffs, individuals who have been declared by Pennsylvania state court judges to be incompetent to stand trial on criminal charges and who have been ordered committed to Norristown State Hospital (“NSH”) or Torrance State Hospital (“TSH”) for treatment to help them attain competence, but who instead have remained in jail for extended periods of time and in some cases for over a year, filed this civil rights class-action lawsuit on October 22, 2015 (*see* ECF No. 1), against officials of the Pennsylvania Department of Human Services (“DHS”), alleging that the delays in transferring them to one of the DHS hospitals for competency-restoration treatment violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution; Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12131-12134; and Section 504 of the Rehabilitation Act (“RA”), 29 U.S.C. § 794;

WHEREAS the parties resolved Plaintiffs’ Motion for Preliminary Injunction (ECF No. 4) by entering into an interim Settlement Agreement (“First Settlement”)

on January 27, 2016, under which DHS agreed to undertake actions designed to reduce the length of the wait lists and wait times of persons declared incompetent and awaiting treatment, i.e., Class A members (ECF No. 35);

WHEREAS on May 11, 2017, after Plaintiffs' counsel determined that despite having invested substantial additional resources to enhance forensic treatment services, DHS had made insufficient progress to reduce the wait lists for people ordered into treatment and to reduce wait times, both the number of people awaiting admission to the state hospitals and the wait times had increased since the First Settlement, Plaintiffs' class counsel renewed their motion for preliminary injunction. *See* ECF Nos. 40 and 45.

WHEREAS the parties resolved Plaintiffs' second preliminary injunction motion by entering into a Second Interim Settlement Agreement ("Second Settlement"), which this Court approved on June 15, 2017, under which DHS agreed to complete additional study of the ongoing problems and to add more institutional and community treatment slots for class members;

WHEREAS on June 22, 2020, this Court approved a Stipulation to Extend Second Settlement Agreement for six months to allow the parties to continue to agree on a Third Settlement Agreement;

WHEREAS on January 4, and June 28, 2021, this Court approved Stipulations to Extend Second Settlement Agreement for additional six-month periods to allow the parties to continue negotiating a Third Settlement Agreement;

WHEREAS the COVID-19 pandemic continues to impact DHS, and other relevant criminal-justice agencies, complicating a reliable status assessment; and

WHEREAS the Parties continue to negotiate in good faith on the terms of a Third Interim Settlement Agreement;

THEREFORE, the Parties hereby agree to be bound as follows:

1. The terms of the Second Settlement are hereby extended until such time as the Parties a) submit a Third Interim Settlement Agreement; or b) inform the Court of a different resolution.

For Defendants

By: /s/ Matthew J. McLees
Matthew J. McLees
Deputy Chief Counsel
Chief of Litigation
PA Attorney I.D. No. 71592
Department of Human Services
Office of General Counsel
7th & Forster Streets
Harrisburg, PA 17120
717-783-2800

For Plaintiffs

By: /s/ Witold J. Walczak
Witold J. Walczak
PA Attorney I.D. No. 62976
AMERICAN CIVIL
LIBERTIES UNION OF
PENNSYLVANIA
247 Fort Pitt Blvd.
Pittsburgh, PA 15222
412-681-7864

APPROVED by the Court on this 4th day of November, 2021.

S/Sylvia H. Rambo
Hon. Sylvia H. Rambo, Senior U.S.D.J.